

Instructions for Preparing Legal Notices for Planning Commission Public Hearings

The Fairfax County Planning Commission staff is responsible for ensuring that legal notice requirements to property owners, for both Planning Commission and Board of Supervisors public hearings, have been satisfied. In accordance with the Fairfax County Zoning Ordinance (Para. 4 of Section 18-110) the applicant/agent, individually and as designee of the Planning Commission staff, shall prepare and mail out legal notices in accordance with the following instructions. ***Failure to accurately comply with these instructions shall be due cause to cancel the hearing and reschedule same at a later date.***

IMPORTANT NOTES

1. The notification process is to be done for both the Planning Commission public hearing AND the Board of Supervisors public hearing. Normally the same individuals notified of the Planning Commission public hearing can be notified of the Board of Supervisors public hearing; however parcel owners must be re-verified to determine whether there has been a change in ownership. Separate notification packages will be sent by the Department of Planning and Zoning (DPZ) via certified mail to the applicant or agent approximately 30 days in advance of each public hearing.
2. For notification purposes, when the application property only involves part of a parcel, the entire parcel is to be treated as the subject property.
3. When the applicant/agent is not the owner of the subject property, a notification identical to that described for adjacent property owners must be sent by certified mail, return receipt requested, to the last known mailing address of the subject property owner(s) following steps prescribed in the Procedures contained on pages 2 through 4 of these *Instructions*.
4. Based on Paragraph 4D of Section 18-110 of the Zoning Ordinance, the following applies when the subject property involves a condominium or cooperative or when the subject property is adjacent to a condominium or cooperative development:
 - A. When the application property is an individual condominium or cooperative unit within a condominium or cooperative building, written notice shall be provided to the condominium unit owners association (or proprietary lessees' association) and the unit owners immediately abutting the application property or on the same floor of the building as the application unit and those unit owners immediately above and below the application unit.
 - B. When the application property is abutting or immediately across the street from open space or common ground of a condominium or cooperative, the condominium unit owners' association or proprietary lessees' association shall be notified in lieu of the individual unit owners.
 - C. When individual condominium or cooperative units or lots abut or are immediately across the street from the application property, written notice shall be sent to the owner of each such unit.
5. When the mailing address for the subject property owner and/or abutting property owners is outside of the United States, call a local Post Office to determine whether a Registered Mail Receipt must be used instead of PS Form 3800 (Receipt for Certified Mail).
6. Applicants for partial proffered condition amendment and special exception applications must notify all owners of parcels within the area of the original application.
7. According to the Zoning Ordinance (Paragraph 6 of Section 18-110), **The hearing body may by resolution prescribe additional means and forms of notices in connection with any matter falling within its jurisdiction.**

PROCEDURES

What to Mail

The applicant/agent is provided one copy of the legal notice and one copy of the property location map with the subject parcel(s) outlined. The legal notice and property location map are prepared by the Zoning Evaluation Division of DPZ and questions about the text of the notice and/or the parcels outlined should be directed to DPZ at 703-324-1290. The applicant/agent must date the legal notice and reproduce a sufficient number of both the notice and the property location map to notify all required property owners in accordance with the procedures in these *Instructions*.

Who Must be Notified

1. In addition to notifying the subject property owner(s), the applicant/agent must send notifications by **certified mail** to the mailing address of all owners of abutting property, whether or not said owners actually reside on the property; and, to all owners of property immediately across the street, road, or highway from the subject property.
2. This notification requirement also applies to property owners in an adjoining county or city.
3. If the list of property owners compiled from item 1 above does not total twenty-five (25) different property owners, then additional notices must be sent to owners of parcels closest to the abutting parcels identified in step 1 above so that a minimum of twenty-five (25) different property owners are notified.
4. Notice sent by certified mail to the last known address of the owner(s) of parcels to whom notice is to be sent, as shown on the current real estate tax assessment records, shall comply with these provisions.

How to Determine Parcel Ownership

1. To identify the parcels to be notified, refer to the most recent property identification map book(s) available in the **Department of Tax Administration (DTA)** on the Third Floor (Suite 333) of the Government Center Building located at 12000 Government Center Parkway, Fairfax, Virginia.
2. Identify each parcel by its complete tax map reference number. EXAMPLE: 31-4 ((2)) 14 In the example, 31-4 refers to the section sheet designation; ((2)) designates the subdivision; and 14 represents the parcel or lot number.
3. Names and mailing addresses of the owners of those Fairfax County parcels selected for notification should be taken from the current real estate tax assessment records maintained by **DTA** on the Third Floor of the Government Center Building. This information is also available online at www.fairfaxcounty.gov/dta/re which is the internet address for DTA.
4. Names and mailing addresses of the owners of abutting parcels that are located in jurisdictions other than Fairfax County shall be taken from the current real estate tax assessment records of such jurisdictions.

What Items Are Needed for Certified Mail

1. The following three items are necessary for certified mailings: Blank #10 envelopes; Domestic Return Receipts (PS Form 3811); and Receipts for Certified Mail (PS Form 3800)
2. PS Form 3811 and PS Form 3800 are available at any branch of the United States Postal Service. (Refer to page 1 concerning the possible need for use of a Receipt for Registered Mail.)

Addressing of Envelopes

1. Envelopes must be labeled with the return address of the Planning Commission, NOT the address of the applicant. (Fairfax County Planning Commission, Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035-0042.)
2. Each envelope must contain only the dated legal notice(s) and the property location map(s) with the subject parcel(s) clearly outlined or highlighted. No other information shall accompany these enclosures.
3. All costs, including postage, will be borne by the applicant.

Addressing of Domestic Return Receipts

1. The green Domestic Return Receipt card (PS Form 3811) must also bear the return address of the Fairfax County Planning Commission and NOT the address of the applicant.
2. The application number must be legibly printed on the lower left-hand corner of the front of the green Domestic Return Receipt card (PS Form 3811).
3. The following sections must be completed on the back of the green Domestic Return Receipt card (PS Form 3811):

Item 1 (Article addressed to): Fill in the name and mailing address of the person(s) to whom the notice is being sent

Item 2 (Article Number): Copy the article number from the *Receipt for Certified Mail*

Item 3 (Type of Service): Mark "Certified" as the type of service requested.

Addressing Receipts for Certified Mail

Each green/white *Receipt for Certified Mail* (PS Form 3800) must reflect the name and mailing address of the property owner(s) to whom the letter is sent. Each green/white *Receipt for Certified Mail* (PS Form 3800) must be postmarked by a branch of the United States Postal Service by the deadline described in the next section.

When to Mail Certified Letters

1. To provide staff sufficient time to review the accuracy and completeness of the submitted notification materials, and to advise the applicant/agent of any notification errors to be corrected, the applicant or agent should postmark the notices, and provide all the required information to the Commission Office, a minimum of twenty (20) days prior to the hearing date.
2. The Zoning Ordinance requires that notices be postmarked not less than fifteen (15) days prior to the date of the Planning Commission public hearing (Para. 4 of Sec. 18-110). The green/white *Receipts for Certified Mail* (PS Form 3800) must be postmarked by the Postal Service with a date not less than fifteen (15) days prior to the date of the public hearing.

Example: Public hearing date: June 9

20 day deadline: May 20 (preferred postmark date to allow staff adequate review time)

15 day deadline: May 25 (latest date by which notices **must** be postmarked)

The enclosed chart lists the mailing deadlines for Planning Commission public hearing dates. **Failure to submit a complete package of required information to the Planning Commission Office by the 20 day deadline may jeopardize the scheduled hearing date.**

Information to Transmit to the Planning Commission Office

On the same day as the mailing, or the workday immediately following, the applicant/agent shall furnish the Planning Commission Office, in person or by first class mail, the following information:

1. **Notification List:** Use the format on page 5, or a similar format approved by the Commission staff, to identify:
 - A. Owner(s) of the property that is the subject of the application who must be notified;
 - B. Abutting/adjacent property owners notified (minimum of 25 different owners);
 - C. Mailing addresses of the individuals notified;
 - D. Complete tax map reference number of the parcels of land that were notified;
 - E. Certified receipt mailing numbers (found at the top of each PS Form 3800).
2. **Postmarked Receipts for Certified Mail** (PS Form 3800).
3. **One copy each of the dated legal notice and the property location map** that was mailed to the notified property owners.
4. **Dated and signed statement of compliance** (The following statement dated and signed by the same applicant/agent whose name is listed on the zoning affidavit):

I certify, as the applicant and/or designee of the Planning Commission staff, that I have mailed the required legal notice and map for the Planning Commission public hearing on application _____ in strict accordance with the instructions furnished me by the Department of Planning & Zoning and the Planning Commission Office.

5. **Name, address, and telephone number of the individual(s) who prepared the notices.**

Submit the above information to the Planning Commission Office via mail or in person. The address is 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035-0042. If you have questions, call the Planning Commission Office at 703-324-2865.

What Happens if the Public Hearing is Deferred after Notices are Mailed

Cases deferred to a date certain five (5) or fewer days from the original Planning Commission public hearing date:

When a motion is made on the actual date of the scheduled Planning Commission public hearing, to defer an application, at the request or with the concurrence of the applicant/agent, to a date certain five (5) days or less than five (5) days from the original public hearing date, no additional notice to property owners is required.

Cases deferred to a date certain more than five (5) days but less than four (4) weeks from the original Planning Commission public hearing date:

When a motion is made on the scheduled Planning Commission public hearing date, to defer the public hearing on an application, at the request of or with the concurrence of the applicant or agent, to a date certain more than five (5) days but less than four weeks (28 days) from the original public hearing date, a supplemental notice to property owners is required. If the deferral falls within this time frame, the Planning Commission Office shall send a first class letter to all previously notified property owners concerning the new public hearing date and time.

Cases deferred to a date more than four (4) weeks from the original Planning Commission public hearing date:

When a motion is made prior to or on the scheduled Planning Commission public hearing date, to defer an application, at the request of or with the concurrence of the applicant or agent, to a date four weeks (28 days) or more from the original public hearing date, the applicant or agent shall re-notify by certified mail all previously notified property owners of the new public hearing date and time. All procedures outlined in these Instructions shall be repeated.

Sample Format of Property Owner Notification List

APPLICATION(s) _____

PUBLIC HEARING DATE _____

Names & Mailing Addresses of Subject Property Owners

Name & Mailing Address

Tax Map Reference Number

Certified Receipt Number

List the required information for all subject property owners

Names & Mailing Addresses of Abutting/Adjacent Property Owners

Name & Mailing Address

Tax Map Reference Number

Certified Receipt Number

List the required information for all abutting/adjacent property owners